IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8905 of 1995

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? :

==========

MAHENDRAKUMAR DESAI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8905 of 1995

MR DARSHAN M PARIKH for Petitioner

MS HANSABEN PUNANI AGP for Respondent

==========

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 03/07/2001

ORAL JUDGEMENT

Learned advocate Mr. Parikh is not present on call. Heard the learned AGP Ms. Punani for the

respondent-State.

The petitioner herein challenges the order dated 28th July, 1995 made by the State Government in respect of the land, City Survey Tikka No. 27/15 to 27/17, admeasuring 1,28,073 sq.mts., situated at Vadodara. It appears that the above referred lands were `excess vacant land' in the hands of the petitioner as the Karta of the Hindu Undivided Family. On an application made by the petitioner, under section 21 of the Urban Land [Ceiling & Regulation] Act, 1976, [hereinafter referred to as, `the Act'], a Housing Scheme for weaker section of the society was sanctioned by the Competent Authority on 7th February, 1992. The said order of 7th February, 1992 was taken into suo motu revision by the State Government. After issuing notice to the petitioner and after affording him an opportunity of hearing, the sanction granted by the Competent Authority was cancelled by the State Government under its order dated 28th July, 1995. Feeling aggrieved, the petitioner has preferred the present petition. Pending this petition, this Court [Coram :- Mr. Justice A.N Divecha, J.,] {as he then was} on 18th October, 1995 made the Order as under :-

> `Notice returnable on 15th November, 1995. By way of ad-interim relief, further proceeding beyond the stage of section 10 (1) of the Urban Land [Ceiling & Regulation] Act, 1976 is stayed. Direct service is permitted.'

The above referred ad-interim order was confirmed and ordered to be continued till the hearing and final disposal of the petition. After cancellation of the Scheme sanctioned under section 21 [1] of the Act, the Competent Authority had issued Notification under section 10 [1] of the Act notifying the particulars of the `vacant land' held by the petitioner in excess of the ceiling limit and that such land would be acquired by the State Government and invited claims of all persons interested in the said vacant land. However, the said land could not have been vested in the State Government in view of the above referred interim order made by this Court. Thus, till the date, neither the said land has been vested in the State Government as envisaged under section 10 [3] of the Act has nor its possession been taken over by the State Government, as envisaged under section 10 [6] of the Act.

Pending this petition, the Act has been repealed under the Urban Land [Ceiling & Regulation] [Repeal] Act, 1999. In view of the repeal of the Act, the cause of action shall not survive. The petition has thus become infructuous. The petition is accordingly dismissed. Rule is discharged. There shall be no order as to costs.

[Ms. R.M Doshit, J.]

Prakash*